

ORDINANCE 13-01

AMENDING TITLE X OF THE TOWN ZONING ORDINANCE, RELATING TO SECTION 8.0 NONCONFORMING USES, STRUCTURES, AND LOTS IN THE TOWN OF POLK, WASHINGTON COUNTY, STATE OF WISCONSIN

Whereas the state statutes have been changed; and

Whereas the Town of Polk, Washington County, State of Wisconsin, Town Board wishes to comply with the change in State Law, Act 170 and NR 115; and

Now Therefore the Town of Polk, Washington County, State of Wisconsin, Town Board does change the following:

Section 8.00 is hereby repealed and replaced to read as follows:

SECTION 8.00 NONCONFORMING USES, STRUCTURES, AND LOTS

8.01 EXISTING NONCONFORMING USES

The lawful nonconforming use of a structure, land, or water existing at the time of the adoption or amendment of Title X may be continued although the use does not conform with the provisions of this Title; however:

- (1) Only That Portion of the land, water, or structure in actual use may be so continued and the nonconforming use may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Title.
- (2) Total Lifetime Structural Repair or alterations to a structure containing a nonconforming use shall not exceed 50 percent of the Town's assessed value of the structure unless it is permanently changed to conform to the use provisions of this Title.
- (3) Substitution of New Equipment may be permitted by the Board of Zoning Appeals if such equipment will reduce the incompatibility of the nonconforming use with neighboring uses.
- (4) If Such Nonconforming Use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water shall conform to the provisions of Title X.
- (5) When a Nonconforming Use or a structure with a nonconforming use is damaged by violent wind, fire, flood, or other calamity to the extent of more than 50 percent of its assessed value, it shall not be restored except so as to comply with the provisions of Title X.

8.02 EXISTING NONCONFORMING STRUCTURES

- (1) A Nonconforming Structure with a Conforming Use existing at the time of the adoption or amendment of Title X may be continued although the structure's size or location does not conform with the Development Regulations of this Title; however, it shall not be extended, enlarged, or moved except when required to do so by law or order or so as to comply with the provisions of this Title. Nonconforming structures with a conforming use may be repaired, maintained, renovated, or remodeled subject to building code and other applicable requirements. No limits may be imposed on the costs of the repair, maintenance, or improvement of said structure.
- (2) A Nonconforming Structure with a Conforming Use which is Damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold, infestation, or other calamity may be restored to the size, location, and use that it had immediately before the damage or destruction occurred. No limits may be imposed on the costs of the repair, reconstruction, or improvement of said structure. The size of the structure may be larger than the size immediately before the damage or destruction occurred if necessary for the structure to comply with applicable State or Federal requirements. Any reconstruction shall conform to the Development Regulations of Title X to the extent practicable, and shall commence within 24 months of the date of damage or destruction.

8.03 CONFORMING STRUCTURES ON NONCONFORMING LOTS

The conforming use of a conforming structure existing at the time of the adoption or amendment of Title X may be continued although the lot area or lot width does not conform to the requirements of this Title.

- (1) Additions or Enlargements to such structures are permitted provided they conform to all Development Regulations of this Title other than lot area and lot width.
- (2) Existing Conforming Structures on Nonconforming Lots which are damaged or destroyed by violent wind, fire, flood, or other calamity may be reconstructed provided they conform to the use provisions and all Development Regulations of Title X other than lot area and lot width.

8.04 CHANGES AND SUBSTITUTIONS

Once a nonconforming use or structure has been changed to conform with the provisions of Title X, it shall not revert back to a nonconforming use or structure. The Zoning Board of Appeals may permit the substitution of a more restrictive nonconforming use for an existing nonconforming use. Once the Board of Zoning Appeals has permitted the substitution of a more restrictive nonconforming use, the existing use shall lose its status as a legal nonconforming use. The substituted use shall be subject to all the conditions required by the Board of Zoning Appeals.

This ordinance shall be in full force, and take effect the day upon its passage. Published as required by Wisconsin Statutes.

Adopted this 12th day of March, 2013

_____, Chairman Albert Schulteis

_____, Supervisor Harold Groth

_____, Supervisor Theodore Merten

Attested By: _____, Marlyss K. Thiel, Town Clerk